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BIENNIAL REPORT

OF THE

DEPARTMENT OF WEIGHTS  
AND MEASURES

OF THE

STATE OF MONTANA

1911-1912

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DEPARTMENT  
OF  
WEIGHTS AND MEASURES

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T. M. SWINDLEHURST,  
Ex-Officio State Sealer of Weights and Measures

JOSEPH CORBY,  
Inspector of Weights and Measures

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**THE STATE OF MONTANA,**  
**Department of Secretary of State.**

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Helena, Montana, December 10, 1912.

His Excellency Hon. Ewin L. Norris,  
Governor, State of Montana.

Helena, Montana.

Dear Sir—In conformity with the provisions contained in Chapter 34, Laws of 1911, I have the honor to submit to you for your consideration a report of the work performed by the Department of Weights and Measures, beginning July 5, 1911, to December 5, 1912, inclusive, together with such suggestions and recommendations that my observations lead me to believe would be beneficial to the Department of Weights and Measures in its future operation of the law regulating the use of weights and measures in this state.

The enactment of Chapter 34, Laws of 1911, by the Twelfth Legislative Assembly, was a measure which had the hearty support and approval of my predecessor in the office of Secretary of State, the Hon. A. N. Yoder, deceased; and it was largely due to his efforts that Senate Bill No. 54 was enacted into law designated as Chapter 34, Laws of 1911. Mr. Yoder had given the question of the regulation of the use of weights and measures much thought and study, and, while he was unable to secure the adoption and the incorporation into the weights and measures law of many of his plans and ideas which would have enhanced and proven of great value in its operation and enforcement, sufficient was accomplished by him to demonstrate his wisdom and to show that the provisions contained in Chapter 34, Laws of 1911, have proven of great benefit to the people of our state in the regulation and supervision of the appliances used for weighing and measuring commodities; and it can be well said that the passage and the enactment into law of Chapter 34, its beneficial results and future great possibilities, is a most creditable monument to the wisdom, foresight, and to the memory of the Hon. A. N. Yoder.

Had the operation and the enforcement of the provisions



contained in Chapter 34 resulted in no other accomplishment but that of calling the attention of those who use weighing and measuring appliances in the trade of buying and selling to the necessity and to the urgency of the requirement needed in the care and the upkeep of the appliances used by them, enough good could be shown to merit an unqualified approval of this law.

Had the provisions contained in this law accomplished nothing but that of having been the medium of removing from our markets the type of inaccurate and unreliable scales and measuring appliances that were formerly used and offered for sale throughout our state, sufficient could be shown to demonstrate and warrant the wisdom of the enactment of this law.

Had nothing more been accomplished than that of establishing a uniform standard of weights and measures for use in this state, enough good could be shown to fully demonstrate the wisdom which prompted the passage of this law; and had nothing more been accomplished than that of directing the attention of the purchasing public to the many discrepancies of weight and measurement which are found in the various package commodities sold and offered for sale, enough good could be shown to prove to the most skeptical that a weights and measures law is required in this state, and that with the addition of added power for the regulation and supervision of the sale and the offer for sale of package commodities its medium for doing good and adding a benefit to the purchasing public will be increased and made manifold.

During my supervision of the operation and the enforcement of the provisions contained in this law, I have endeavored to stimulate a feeling for the importance which it represents, and my object has at all times been to impress upon those charged with its operation and enforcement in the several counties to the necessity of co-operating with the state department to the end that a uniformity of procedure might be had, and that the law should be operated and conducted with the least possible friction and in a manner tending toward a firm determination in having its every provision fulfilled and its purport adhered to. In this particular I have in the main succeeded, and have had the hearty co-operation and assistance of the deputies in the several counties and cities, who have, to the very best of their ability, and in many cases at a great personal inconvenience, due to the lack of adequate help,

assisted in pushing forward this most needed and important work directed toward the use of weighing and measuring appliances in this state; to these deputies in the several counties and cities my hearty thanks and appreciation is extended.

Like many new ventures in governmental supervision, the experimental stage must be passed before its worth can be determined and its superstructure strengthened by the elimination of its weak or unimportant provisions and the addition of other provisions which will add to its scope and strengthen its possibilities for greater good. In this respect Chapter 34 is no exception; it has passed the experimental stage and has demonstrated its worth, and now but awaits the additions from the Legislature which will enhance its beneficence for doing good, and which will mark an epoch in remedial legislation that will redound to the credit of our state.

My observations have shown me that the high cost of living can be greatly lessened through the enactment of laws by our Legislature governing the sale and offer of sale of package commodities. I feel that I make no exaggeration when I state that the greater proportion of package commodities sold and offered for sale in this state can be truthfully designated with the term short weight and measure packages. This system of selling commodities should not be permitted or tolerated, for, certainly, no good purpose is being served when the purchaser of a package commodity is forced to pay for the fractional part of a pound of paper or other container, under the presumption that he is receiving full weight or measurement of the commodity contained in such package.

The necessity for the enactment of a law regulating and governing the sale of package commodities in this state is most apparent, and the passage of such a law would prove of incalculable benefit and value to the purchasing public.

There is hardly any room for doubt or to question the assertion that the high cost of living can be charged and is traceable to the sale of package commodities the greater portion of which are most appreciably short in weight.

The practice of selling or offering for sale commodities by the package and without any designation of weight or measurement should be prohibited and stopped, and a requirement should be exacted compelling the sale of all package commodities to be made by weight or measurement.

Under the provisions contained in our present law, no super-



vision or control can be maintained over the sale or offer for sale of packages not marked with weight or capacity, consequently any one is free from being charged with a violation of the law and is permitted to sell or offer for sale packages which are presumed to contain a pound or more and which in reality might contain but ten or twelve ounces; but with the passage of a stringent and comprehensive package law requiring that all packages must be plainly marked with their weight or measurement contents, this system of selling short weight would soon be eliminated.

Another feature of the present law which does not appeal to me as being just is the provision which requires that a fee shall be collected for the inspection and tests of weighing and measuring appliances; this provision appears to be most inconsistent with the general purposes and intent of the law, which is in every respect a regulation operating in the interest of the general public, and which in all equity is a charge that should be paid for by the taxpayers as a whole, and not by the few as now provided for in the law.

Many of the states which have similar laws and regulations to those in use in the state of Montana require that fees shall be charged and collected for the inspections and tests of weights and measures, but reports from these states disclose the fact that the collection of fees is not considered to be conducive to the best interests for the regulation of weights and measures; while in the states wherein no fees are required the work of conducting the inspections and tests is proceeded with less friction and with greater vigor and energy than it is in the states where fees are required.

I have no hesitancy in asserting that with the abolishment of the fee system in Montana the law will prove far more satisfactory and efficient than under our present regulations requiring fees to be paid for the inspections and tests of the weighing and measuring appliances used in our state.

A question that seems to be worthy of some consideration and attention by our legislature, is the one relating to tolerance, or the shrinkage in commodities. It would appear that the question of tolerance or shrinkage in commodities is one that our State Agricultural College might well be occupied with in determining the differential in weights of commodities offered for sale within our state, taking the different kinds of commodities at various periods through the life or average period



of purity and wholesomeness; through such a process and manner an allowable tolerance or shrinkage could be established that would be fair and indisputable, and would be equable to all, purchaser and buyer alike.

An appropriation of money by the Legislature for this purpose would prove highly beneficial in determining this question, and would result in an immense benefit to the public.

As a medium of economy and greater efficiency in conducting the work of supervising the use of weighing and measuring appliances, I would respectfully recommend that the State Sealer of Weights and Measures be empowered by the Legislature with authority to create weights and measures district, comprising two or more counties which are adjoining and contiguous. There does not seem to be any good cause or reason to place the compulsory burden of maintenance of a special deputy upon each of the several counties in the state, when by the creation of a district one deputy sealer could perform the work for two or more counties and with better result than that which we are having under our present system.

With an added provision to the law giving to the State Sealer of Weights and Measures the power to create districts throughout the state, a much greater efficiency will result and at a much lessened cost to the several counties in the state.

A matter of great moment connected with the law regulating the use of weights and measures, is the one appertaining to state supervision and regulation of the weighing appliances used by the railroad and express corporations which operate in this state; and while no opposition has been placed in the way of the weights and measures department, denying the right to conduct inspections and tests of the appliances used by the various railroad and express companies, decided and successful opposition has been experienced from several of these companies when a demand was made upon them for the payment of the fees required by the law, and a most emphatic refusal was given to comply with such provision.

The reason advanced by them for their refusal to pay the required fees, was that they were engaged in inter state business and as a consequence were not amenable to any state regulation or supervision over the weighing appliances used by them in the state of Montana; in this contention and refusal to recognize the law, they cite a decision rendered by the

supreme court which apparently upholds them successfully in their opposition.

To avoid a continuance of this opposition and as a means of eliminating the possibility of any future contention or refusal, I recommend that the law be amended and changed so that the state can secure and have the required regulation and supervision over the weighing appliances used by the railroad and express companies which operate in this state, and who carry freight and the like consigned to and from points in this state; this requirement is most needed and necessary, due to the vast tonnage shipped to and from points within the borders of our state.

Due to the great number and various types of computing scales or balances used in the trade in this state, I would urge that legislative authority be given to the department of weights and measures, empowering the department to supervise and control the use of price charts attached to the various computing scales operated in the state; the multiplicity of and different character of price charts offered for sale, is almost beyond comprehension and belief, while the opportunity to encourage fraud on some of those offered for sale is so manifest, that the department of weights and measures deemed it wise and expedient to issue an order prohibiting their use; with adequate authority granted to the department of weights and measures, this medium of fraud can be checked and prohibited.

The penal provisions contained in the law has been invoked in three instances; twice in the city of Butte, and once in the city of Hamilton. The two convictions in the city of Butte, were occasioned through the sale of short weight butter, the fine imposed was \$25.00, in one case, and \$200.00 in the other; in the city of Hamilton the conviction was occasioned for using an incorrect scale after the same had been condemned, the fine imposed was \$5.00.

In conformity with my suggestions and recommendations, I have prepared amendments for the consideration of the legislature, which, if accepted and enacted into law, will assist in removing some of the deficiencies which now exist in our present regulations, and which, in my opinion, will add very materially to its future usefulness and power to perform the great good for which it is intended.



During the period of time covered by this report, namely, from July 5, 1911, to December 5, 1912, there has been a total of 4,895 scales examined and tested, of which number 4,816 scales were approved and 79 scales were condemned; 3,255 liquid measures have been examined, of which number 3,191 liquid measures were approved and 64 liquid measures were condemned; 48 dry measures have been examined and approved; 1,267 yard measures were tested, of which number 1,265 yard measures were approved, and 2 were condemned; 3,030 5-12 dozen milk and cream bottles were tested, of which number 3,020 $\frac{1}{4}$  dozen were approved and 10 1-6 dozen were condemned.

There was a total of \$6,465.72 collected in fees, from which amount the state received the sum of \$1,613.61, and there was retained by the several counties and cities the sum of \$4,852.11.

There was collected from the counties and cities of

Beaverhead .....	\$ 47.04
Broadwater .....	21.02
Carbon .....	18.44
Cascade .....	80.09
Chouteau .....	6.51
Custer .....	71.08
Deer Lodge .....	80.69
Fergus .....	169.34
Flathead .....	66.69
Gallatin .....	68.91
Granite .....	19.59
Jefferson .....	53.47
Lewis and Clark .....	160.10
Lincoln .....	14.28
Madison .....	105.00
Meagher .....	57.85
Missoula .....	52.52
Musselshell .....	15.51
Park .....	23.01
Ravalli .....	75.18
Rosebud .....	29.69
Sanders .....	27.17
Silver Bow .....	93.23
Sweet Grass .....	11.71
Teton .....	68.85
Valley .....	57.95
Yellowstone .....	30.66
City of Forsyth .....	15.78
City of Butte .....	72.25

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Total .....\$1,613.61



There was retained by the counties and cities of,

Beaverhead .....	\$ 141.11
Broadwater .....	62.78
Carbon .....	55.36
Cascade .....	240.21
Chouteau .....	29.40
Custer .....	213.21
Deer Lodge .....	242.11
Fergus .....	508.01
Flathead .....	200.14
Gallatin .....	206.69
Granite .....	58.86
Jefferson .....	160.38
Lewis and Clark .....	480.30
Lincoln .....	42.82
Madison .....	314.90
Meagher .....	173.55
Missoula .....	157.18
Musselshell .....	46.44
Park .....	68.89
Ravalli .....	225.62
Rosebud .....	89.21
Sanders .....	81.58
Silver Bow .....	279.57
Sweet Grass .....	35.19
Teton .....	207.70
Valley .....	173.90
Yellowstone .....	92.54
City of Forsyth .....	47.77
City of Butte .....	216.60
Total .....	<u>\$4,852.11</u>

The testing appliances, owned and in possession of the state, consist of,

- 1 large testing office balance.
- 1 case for office balance.
- 1 portable inspector's testing outfit.
- 1 set brass liquid capacity testing measures.
- 1 set nickel liquid capacity testing measures.
- 1 set nickel dry capacity testing measures.
- 1 copper five-gallon test measure.
- 1 standard brass yard test measure.
- 1 case brass graduated test weights 1-10 grain to 8 ounces av.
- 1 case steel graduated test weights 1-32 oz. to 1 lb. av.
- 1 case brass graduated apothecaries weights 1-10 gr. to 1 lb.
- 1 case aluminum and brass grain weights.

1 set brass test weights 50, 25, 20, 10, 5, 4, 3, 2, 1 lb. av.

1 set steel test weights 50, 25, 20, 10, 10, 5, 5 lb. av.

1 brass troy test weight 1 lb.

1 steel test hook weight 1 lb.

1 pocket 6 in. spirit level.

1 sealing block.

1 pocket magnifier.

1 reamer.

1 pointer set.

The work of conducting and supervising the use of weights and measures in the several counties has been under the direction and charge of the county clerks and recorders; while in the municipal corporations of Butte and Forsyth, it has been under the care and charge of special deputies appointed by the said cities; the general supervision and direction of the work applicable to its operation and enforcement, has been under the direction and charge of the state, the orders of which have been enforced and executed under the direction of an inspector, representing the department of weights and measures.

The necessary testing appliances have been secured or ordered for use in the several counties comprising the state; all of the testing appliances in the possession of the state have been inspected, tested and approved by the National Bureau of Standards, Washington, D. C., and in like manner the testing appliances used by the several counties and cities have been tested and approved by the state department of weights and measures; thus assuring a uniform standard of weight and measurement in the State of Montana.

The great and important detail work necessary to organize and to begin the operation of a new department is not without its anxiety, worry and discouragement, but when the first difficulties have been passed and an understanding of the work in charge has been secured, a new aspect is disclosed which creates an added interest tending toward its future well-being and progress.

My attitude and feeling toward the newly created weights and measures department was one of perplexity and dismay, it seemed to represent to me a scope of impossible intricacies with which I could not cope, but after the first difficulties had been overcome I began to see and realize the great magnitude of good which could be accomplished through its operation and



enforcement; it was borne to my mind that an avenue had been opened in our state which could lead to the solution of many vexed questions connected with the trade of buying and selling. My observations showed me that a most negligent carelessness was being exercised in the care of the weighing and measuring appliances used in trade; that the department of weights and measures could be made the medium which would remedy and stop the growth of an unconscious and unintentional system of inaccuracy in the conduct of business, by calling attention to the importance and need of devoting care to the accuracy of the appliances used in determining the quantities of commodities purchased.

The importance of the weights and measures department should not be underestimated, but should receive every encouragement and support from the state, for, by and through the operation and enforcement of its provisions, it is possible to lessen the prevalent complaint of the high cost of commodities, through its insistence of the delivery of a standard pound, a standard yard and a standard quart, which must be weighed and measured on standard appliances which have been approved and tested by the state; and with the addition of a comprehensive package law, its powers will be increased and its beneficence will be most manifest. Too often little or no attention is given the matter of securing for the individual the full purchasing power of the dollar in reference to reliable weight and measure. It must be conceded that it is equally important to the individual that full value be exchanged for the dollar as it is that fair compensation be received for labor or endeavor.

During my tenure in the office of State Sealer of Weights and Measures I attended a meeting of the national organization at the Bureau of Standards at Washington, D. C., where much valuable information for our Montana department was obtained. I made a careful study of the methods employed by departments of a like character as the limited time at my disposal would permit. I considered the meeting at Washington very beneficial to State Sealers who are called upon to improve this department.

In conclusion I wish to express my full appreciation of the splendid service rendered the department by Hon. Joseph Corby, Inspector of Weights and measures, under whose per-



sonal direction the department has been conducted since its inception July 5th, 1911. Mr. Corby has labored earnestly for better methods of weighing and measuring commodities in this state and the success attained in this direction speaks much for his intelligent work.

At this the close of my tenure in the office of State Sealer of Weights and Measures, I wish to declare my sincere belief in the weights and measures law and its future possibilities for doing great good, and respectfully solicit its every encouragement from the legislature and the state officials; and, with a feeling of profound pride, in the consciousness that some good has been accomplished under my supervision, I am,

Most respectfully,

T. M. SWINDLEHURST,

Ex-officio State Sealer of Weights and Measures.











